

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Ivory Joe Tisdale, )  
                        )  
                        )  
Petitioner,         )  
                        )  
                        )  
v.                     )                   1:06CV00359  
                        )  
                        )  
Theodis Beck,         )  
                        )  
                        )  
Respondent.         )

**ORDER AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, a prisoner of the State of North Carolina, has submitted a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody together with the \$5.00 filing fee. The Clerk of Court received the submission on April 14, 2006. For the following reasons, the petition cannot be further processed.

1. Petitioner has filed one habeas petition which is pending in this Court at this time. (No. 1:05CV1012) Petitioner may not file a second or successive habeas petition. His remedy is to file a motion to amend his pending petition if he wishes to add claims and receive permission to do so from the Court.
2. An insufficient number of copies was furnished. Petitioner must submit the original and two copies. [Attached instructions and Rule 3(a), Rules Governing § 2254 Cases.]

Because of these pleading failures, this particular petition should be filed and then dismissed, without prejudice to petitioner seeking to amend his pending petition. To further aid petitioner, the Clerk is instructed to return the \$5.00 filing fee to petitioner.

In forma pauperis status will be granted for the sole purpose of entering this order and recommendation.

**IT IS THEREFORE ORDERED** that in forma pauperis status is granted for the sole purpose of entering this order. The Clerk is instructed to return the \$5.00 filing fee to petitioner.

**IT IS RECOMMENDED** that this action be filed, but then dismissed sua sponte without prejudice.

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/s/ P. Trevor Sharp  
United States Magistrate Judge

Date: April 20, 2006